

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## Assembly Constitutional Amendment

No. 6

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Introduced by Assembly Member Charles Calderon

December 16, 2008

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Assembly Constitutional Amendment No. 6—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by ~~repealing and adding Section 5 of Article II~~ adding Section 36 to Article XIII thereof, relating to ~~primary elections~~ taxation.

### LEGISLATIVE COUNSEL'S DIGEST

ACA 6, as amended, Charles Calderon. ~~Elections: primary elections.~~  
*Tax expenditures: operative period.*

*The California Constitution provides that any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto, as specified, shall be imposed by an act passed by not less than  $\frac{2}{3}$  of all Members elected to each of the 2 houses of the Legislature, except as provided.*

*This measure would require that a new tax expenditure, as defined, or extension of the operation of an existing tax expenditure, as defined, that is enacted by a legislative measure be operative for a period of 7 years or for any shorter period specified in that measure.*

~~Existing provisions of the California Constitution require the Legislature to provide for primary elections for partisan offices, including an open presidential primary election, as specified.~~

~~This measure, designated the "Voter Choice Act," would instead require that all candidates be listed on a single voter choice primary ballot for primary elections for the offices of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller,~~

~~Secretary of State, Treasurer, Member of the Assembly, State Senator, and Member of the State Board of Equalization. The measure would provide that a candidate who receives a majority of the votes for one of these offices at the voter choice primary would be declared the winner. The measure would further provide that, if no candidate receives a majority of votes as to an office at the primary, the 2 candidates who receive the greatest number of votes would be listed on a general election ballot for that office.~~

~~The measure would require a ballot separate from the voter choice primary election ballot to be used for primary elections for congressional offices and for delegates to a national political party convention at which a nominee for President of the United States is chosen, as specified.~~

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

1     RESOLVED BY THE ASSEMBLY, THE SENATE  
2     CONCURRING, *That the Legislature of the State of California*  
3     *at its 2009–10 Regular Session commencing on the first day of*  
4     *December 2008, two-thirds of the membership of each house*  
5     *concurring, hereby proposes to the people of the State of California*  
6     *that the Constitution of the State be amended as follows:*

7     That Section 36 is added to Article XIII thereof, to read:

8     SEC. 36. (a) *On or after the effective date of this section, a*  
9     *new tax expenditure, or extension of the operation of an existing*  
10    *tax expenditure, that is enacted by a legislative measure shall be*  
11    *operative for a period of seven years or for any shorter period*  
12    *specified in that measure.*

13    (b) *For purposes of this section, “tax expenditure” means a*  
14    *credit, deduction, exclusion, exemption, or any other tax benefit*  
15    *provided by statute.*

16    ~~Resolved by the Assembly, the Senate concurring, That the~~  
17    ~~Legislature of the State of California at its 2009–10 Regular~~  
18    ~~Session commencing on the first day of December 2008, two-thirds~~  
19    ~~of the membership of each house concurring, hereby proposes to~~  
20    ~~the people of the State of California, that the Constitution of the~~  
21    ~~State be amended as follows:~~

22    ~~First—That this measure shall be known and may be cited as~~  
23    ~~the “Voter Choice Act.”~~

24    ~~Second—That the people of the State of California hereby find~~  
25    ~~and declare all of the following:~~

1     ~~(a) The current system of primaries in California limits voters'~~  
2     ~~choices and has resulted in a steady decline in voter participation~~  
3     ~~in this State.~~

4     ~~(b) The Voter Choice Act will establish an election system in~~  
5     ~~California that will allow all voters to vote for state elective offices~~  
6     ~~on a primary election ballot regardless of any party registration or~~  
7     ~~party preference of the candidates or the voters.~~

8     ~~(c) A primary conducted according to the Voter Choice Act will~~  
9     ~~foster more choice for California voters, greater participation,~~  
10    ~~increased privacy, and a sense of fairness without burdening~~  
11    ~~political parties' constitutional rights. Encouraging California~~  
12    ~~citizens to vote is a legitimate and essential objective of the State,~~  
13    ~~and will preserve constitutional order by ensuring a strong,~~  
14    ~~participatory democratic process.~~

15    ~~(d) A primary conducted according to the Voter Choice Act~~  
16    ~~will permit California voters to select the candidates they prefer,~~  
17    ~~regardless of the candidates' party registration or stated party~~  
18    ~~preference. This type of primary will result in more competitive~~  
19    ~~election contests in which candidates will be able to take positions~~  
20    ~~on a wide range of issues.~~

21    ~~(e) A primary conducted according to the Voter Choice Act will~~  
22    ~~give California voters a real choice. A voter will be able to vote~~  
23    ~~for any candidate for any state elective office in the primary~~  
24    ~~election, and will not be limited to voting only for those candidates~~  
25    ~~of the party, if any, with which the voter is registered.~~

26    ~~(f) A primary conducted according to the Voter Choice Act will~~  
27    ~~guarantee competition in the general election. California voters~~  
28    ~~will be given two competitive choices in the general election,~~  
29    ~~involving greater voter participation than in the primary election.~~  
30    ~~This will replace the current system in which the political parties~~  
31    ~~protect incumbents through reapportionment plans, making many~~  
32    ~~state legislative seats safe for incumbents or candidates of one or~~  
33    ~~the other of the major parties.~~

34    ~~(g) A primary conducted according to the Voter Choice Act~~  
35    ~~will result in greater voter participation. By allowing voters~~  
36    ~~complete freedom of choice among many candidates for state~~  
37    ~~elective office, regardless of the candidates' party registration or~~  
38    ~~party preference, a primary conducted according to the Voter~~  
39    ~~Choice Act will encourage increased voter participation. In~~  
40    ~~addition, some two million voters who have chosen not to register~~

1 with a party, comprising some 15 percent of all California voters,  
2 will have a chance to participate fully in the primary.

3 ~~(h) A primary conducted according to the Voter Choice Act~~  
4 ~~will result in a greater number of candidates running for state~~  
5 ~~elective offices. Candidates who are not registered with a political~~  
6 ~~party will now be able to compete in primary elections.~~

7 ~~(i) A primary conducted according to the Voter Choice Act will~~  
8 ~~preserve the right of California's political parties to endorse~~  
9 ~~candidates for state elective offices by any method selected by the~~  
10 ~~parties.~~

11 ~~(j) A primary conducted according to the Voter Choice Act will~~  
12 ~~not infringe on the constitutional rights of political parties.~~  
13 ~~California political parties will continue to decide whether nonparty~~  
14 ~~members may participate in the selection of candidates for~~  
15 ~~congressional offices and delegates to a national political party~~  
16 ~~convention at which a nominee for President of the United States~~  
17 ~~is chosen, the selection of members of political party county central~~  
18 ~~committees, or both.~~

19 ~~(k) A primary conducted according to the Voter Choice Act~~  
20 ~~will not affect the power of the Legislature to alter existing law~~  
21 ~~governing the means by which political parties select delegates to~~  
22 ~~national political party conventions at which a party nominee for~~  
23 ~~President of the United States is chosen, elect or select members~~  
24 ~~of political party state and county central committees, or both.~~

25 ~~(l) A political party will have the right to determine whether or~~  
26 ~~not the voter registration status of candidates registered as voters~~  
27 ~~with that particular political party will be included on the ballot,~~  
28 ~~sample ballot, voter pamphlet, and other related election materials~~  
29 ~~intended for distribution to the voters.~~

30 ~~Third—That the People of the State of California hereby declare~~  
31 ~~that their purpose and intent in approving the Voter Choice Act is~~  
32 ~~as follows:~~

33 ~~(a) To amend the current primary election system in California,~~  
34 ~~which limits voters' choices and has resulted in a steady decline~~  
35 ~~in voter participation in this State.~~

36 ~~(b) To establish an election system that allows all California~~  
37 ~~voters to vote for candidates for state elected offices on a primary~~  
38 ~~election ballot, regardless of the party registration or stated party~~  
39 ~~preference, if any, of the candidates.~~

1 ~~(e) To foster more choice for California voters, greater~~  
2 ~~participation, increased privacy, and a sense of fairness, without~~  
3 ~~burdening political parties' constitutional rights.~~

4 ~~(d) To increase voter participation by allowing California voters~~  
5 ~~complete freedom of choice to select their preferred candidates,~~  
6 ~~regardless of the candidates' party registration.~~

7 ~~(e) To give California voters a real choice by allowing them to~~  
8 ~~vote for any candidate for state elective offices in the primary~~  
9 ~~election.~~

10 ~~(f) To increase competition in the general election by giving~~  
11 ~~California voters two competitive choices in the general election,~~  
12 ~~where some two to four million more voters vote than in the~~  
13 ~~primary election.~~

14 ~~(g) To allow some two million California voters who have~~  
15 ~~chosen not to register with a political party the chance to participate~~  
16 ~~fully in a primary conducted according to the Voter Choice Act.~~

17 ~~(h) To encourage a greater number of candidates to run for state~~  
18 ~~elective offices.~~

19 ~~(i) To preserve the right of California's political parties to~~  
20 ~~endorse candidates for state elective offices and to decide whether~~  
21 ~~nonparty members may participate in the selection of a party's~~  
22 ~~presidential delegates, party county central committee members,~~  
23 ~~or both.~~

24 ~~(j) To protect the constitutional rights of political parties.~~

25 ~~(k) To retain existing law and the power of the Legislature to~~  
26 ~~alter existing law governing the means by which political parties~~  
27 ~~select delegates to national political party conventions, elect or~~  
28 ~~select members of political party state and county central~~  
29 ~~committees, or both.~~

30 ~~(l) To give each qualified political party the right to determine~~  
31 ~~whether the voter registration status of candidates registered with~~  
32 ~~the party will be included on the ballot and other related election~~  
33 ~~materials intended for distribution to the voters.~~

34 ~~Fourth—That Section 5 of Article II thereof is repealed.~~

35 ~~Fifth—That Section 5 is added to Article II thereof, to read:~~

36 ~~SEC. 5. (a) A direct or special primary election for each office~~  
37 ~~specified in subdivision (d) shall be held as a voter choice primary~~  
38 ~~election.~~

39 ~~(b) A voter choice primary election is a primary election in~~  
40 ~~which each voter, regardless of any party affiliation, may vote for~~

1 any qualified candidate, including a qualified write-in candidate,  
2 regardless of any party affiliation or party preference of the  
3 candidate.

4 (e) All candidates at a voter choice primary election for each  
5 office specified in subdivision (d) shall be listed on a single voter  
6 choice primary ballot. If a candidate receives a majority of the  
7 votes for an office on the voter choice primary ballot, that candidate  
8 shall be declared elected. If no candidate receives a majority of  
9 the votes for an office on the voter choice primary ballot, the two  
10 candidates who receive the greatest number of votes for each office  
11 shall be listed on the general election ballot for that office.

12 (d) The offices for which this section governs the primary  
13 election are Governor, Lieutenant Governor, Attorney General,  
14 Insurance Commissioner, Controller, Secretary of State, Treasurer,  
15 Member of the Assembly, State Senator, and Member of the State  
16 Board of Equalization.

17 (e) A ballot separate from the voter choice primary ballot shall  
18 be used for primary elections for congressional offices and for  
19 delegates to a national political party convention at which a  
20 nominee for President of the United States is chosen, including an  
21 open presidential primary whereby the candidates on the ballot  
22 are those found by the Secretary of State to be recognized  
23 candidates throughout the nation or throughout this State for the  
24 office of President of the United States, and those whose names  
25 are placed on the ballot by petition, but excluding any candidate  
26 who has withdrawn by filing an affidavit of noncandidacy.